

## UNITED STATES DISTRICT COURT

for the  
Southern District of Ohio

In the Matter of the Search of

*(Briefly describe the property to be searched  
or identify the person by name and address)*THE PERSON OF RAPHAEL J. GARRETT WITH A  
CURRENT ADDRESS OF 1134 VERNON DRIVE,  
DAYTON, OHIO 45402

Case No.

3 : 17 mj : 297

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

The person of Rapheal J. Garrett, with a current address of 1134 Vernon Drive, Dayton, Ohio 45402

located in the Southern District of Ohio, there is now concealed *(identify the person or describe the property to be seized)*:

a DNA sample, which will be obtained by placing a cotton swab inside the mouth of Rapheal J. Garrett and then rubbing the inside of his cheeks to obtain cellular material

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section

Offense Description

18 USC 922(g)

Felon in possession of a firearm

The application is based on these facts:

SEE ATTACHED AFFIDAVIT

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Sworn to before me and signed in my presence.

Date: 6/28/17City and state: DAYTON, OHIO

TFO Michael T. Fuller, FBI Safe Streets Task Force

Printed name and title

Judge's signature

MICHAEL J. NEWMAN, U.S. MAGISTRATE JUDGE

Printed name and title

FILED  
RICHARD W. NAGEL  
CLERK OF COURT  
2017 JUN 28 AM 9:25  
U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
WESTERN DIV. DAYTON

**AFFIDAVIT**

Your Affiant, Michael T. Fuller, being duly sworn, states as follows:

**I.**

**INTRODUCTION**

1. I am a sworn law enforcement officer in the State of Ohio and have been employed by the Dayton Police Department since 2001. I am currently a deputized Task Force Officer (TFO) assigned to the Federal Bureau of Investigation (FBI), United States Department of Justice Southern Ohio Safe Streets Task Force (SOSSTF), Dayton Resident Agency and have served in that capacity since January 2013. During my career in law enforcement, I have written and/or participated in numerous federal search warrants and/or arrests for the illegal possession of firearms and narcotics. I am familiar with federal criminal laws including, but not limited to, federal firearms and drug trafficking offenses. I know that possession of a firearm by a prohibited person is a violation of Title 18, United States Code, Section 922(g).

**II.**

**PURPOSE OF THE AFFIDAVIT**

2. This Affidavit is in support of:
  - a. a search warrant to obtain a Deoxyribonucleic Acid (DNA) sample from the person of Marvis A. WALTON III (date of birth 4/28/1982) currently residing at 6845 Watergreen Court, Dayton, Ohio 45424 as this DNA sample may constitute evidence of violations of 18 U.S.C. § 922(g) (felon in possession of firearms).

and

- b. a search warrant to obtain a Deoxyribonucleic Acid (DNA) sample from the person of Rapheal J. GARRETT (date of birth 3/17/1989) currently residing at 1134 Vernon Drive, Dayton, Ohio 45402 as this DNA sample may constitute evidence of violations of 18 U.S.C. § 922(g) (felon in possession of firearms).
3. Affiant makes this affidavit from personal knowledge based on my participation in this investigation, including witness interviews and reports by myself and/or other law enforcement agents, communications with others who have personal knowledge of the events and circumstances described herein, and information gained through my training and experience. The information outlined below is provided for the limited purpose of establishing probable cause and does not contain all details or all facts of which I am aware relating to this investigation.

### **III.**

#### **SUMMARY OF PROBABLE CAUSE**

4. On or about May 29, 2017, at approximately 4:03 a.m., Ohio State Highway Patrol Trooper Eric C. Frost was patrolling in the area of SR-48 and Philadelphia Drive, in Harrison Township, Ohio. Trooper Frost was driving a marked cruiser and wearing the uniform of the day. While in this area, Trooper Frost observed a vehicle traveling eastbound on Philadelphia Drive approaching SR-48. The vehicle, a purple 2009 Lincoln Continental, Ohio license plate HCN-3910, nearly ran the red light and almost collided with Trooper Frost as he was proceeding through his green light on SR-48.
5. Trooper Frost turned his cruiser around and got behind the Lincoln Continental and watched as the vehicle accelerated away from him through the red light. Trooper Frost activated his emergency lights and sirens and pursued the Lincoln Continental for several minutes until it ultimately crashed into a house at 6019 Philadelphia Drive.
6. As the vehicle came to rest, Trooper Frost, watched as the driver's door opened and a black male, later identified as WALTON, attempted to run away. Trooper Frost deployed



his Taser to prevent WALTON's escape and then took him into custody. During this time an unidentified black male exited the rear driver's door and fled the area.

7. After Trooper Frost placed WALTON into custody he ordered another occupant, later identified as GARRETT, out of the vehicle. Additional marked Law Enforcement units responded to the scene and assisted Trooper Frost in detaining WALTON and GARRETT in the back of police vehicles.
8. Once both WALTON and GARRETT were secured, Trooper Frost and additional Law Enforcement units located a Glock Model 42 .380 caliber handgun, loaded with 6 live rounds, in the grass between the front driver's side door and the rear driver's side door, close to where all the occupants exited the vehicle.
9. The Glock Model 42 caliber .380 semiautomatic pistol with serial number ABEH103, one Magazine and six unfired .380 caliber cartridges, were sent to the Miami Valley Regional Laboratory. Prior to operability testing, a swab from the firearm was obtained and preserved at the laboratory to be compared to known DNA profiles. The firearm was then tested for operability analysis. The weapon was test fired and found to be operable and in good working condition.
10. Your Affiant conducted a criminal history records check concerning WALTON. In doing so, it was learned that WALTON had been convicted of the following felony, punishable by a term of imprisonment exceeding one year - namely:
  - a. on or about June 12, 2006, in the Court of Common Pleas, Montgomery County, Ohio, Case Number 2003 CR 04028, Aggravated Robbery (Deadly Weapon)(F1).
11. Your Affiant conducted a criminal history records check concerning GARRETT. In doing so, it was learned that GARRETT had been convicted of the following felony, punishable by a term of imprisonment exceeding one year – namely:

- a. on or about August 22, 2011, in the Court of Common Pleas, Montgomery County, Ohio, Case Number 2010 CR 03536, Possession of Cocaine (5G but less than 25G)(F4).

12. Based on the investigation, I believe that the Glock Model 42 caliber .380 semiautomatic pistol with serial number ABEH103, one Magazine and six unfired .380 caliber cartridges was possessed by one of the occupants of the Lincoln Continental. Your affiant is requesting a sample of WALTON's DNA and GARRETT's DNA, to compare with the DNA samples recovered from the Glock handgun.

#### IV.

#### CONCLUSION

13. Based on the foregoing, I believe there is probable cause to issue the following:

- a. a search warrant to obtain a Deoxyribonucleic Acid (DNA) sample from the person of Marvis A. WALTON III (date of birth of 04/28/1982) currently residing at 6845 Watergreen Court, Dayton, Ohio 45424 as this DNA sample may constitute evidence of violations of 18 U.S.C. § 922(g) (felon in possession of firearms).

- b. a search warrant to obtain a Deoxyribonucleic Acid (DNA) sample from the person of Rapheal J. GARRETT (date of birth of 03/17/1989) currently residing at 1134 Vernon Drive, Dayton, Ohio 45402 as this DNA sample may constitute evidence of violations of 18 U.S.C. § 922(g) (felon in possession of firearms).

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Therefore, I request that the Court allow me and other law enforcement officers to take cotton swabs and separately place them inside the mouths of WALTON and GARRETT, rubbing the inside of their cheeks to obtain cellular material. Based on my training and experience, I know that this procedure is quick, painless and involves minimal intrusion into the body.

  
\_\_\_\_\_  
Michael T. Fuller  
Task Force Officer  
Federal Bureau of Investigation

Subscribed and sworn to before me this 28<sup>th</sup> day of June, 2017.

  
\_\_\_\_\_  
Honorable Michael J. Newman  
United States Magistrate Judge

